



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 10, 1998

Mr. John Patterson
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR98-2655

Dear Mr. Patterson:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119362.

The City of Waco (the "city") received a request for correspondence between the city and Watson Claim Service concerning a claim made by the requestor. You assert that the requested records are protected from disclosure under section 552.103(a) of the Government Code. To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex.App.-Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.-Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990).

You submitted to this office a copy of a notice of claim that you state "appears to be in compliance with the notice requirements of the Texas Tort Claims Act and Article XI, Section 7 of the City of Waco Charter." In Open Records Decision No. 638 (1996), this office determined that a governmental body could establish that litigation is reasonably anticipated if the governmental body received a claim letter that it represented to this office is in compliance with the notice requirements of the Texas Tort Claims Act, Civ. Prac. & Rem. Code ch.101 ("TTCA") or applicable municipal ordinance. As we understand it to be your representation that the notice of claim is in compliance with the TTCA and the city ordinance, we agree that you have shown that litigation is reasonably anticipated.

We have reviewed the submitted records and agree that they are related to the claim, which is the subject of the anticipated litigation. You included some correspondence which

the requestor has seen. Once information has been obtained by all parties to the anticipated litigation, no section 552.103(a) interest generally exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Thus, under section 552.103(a) you may withhold the records at issue that the opposing party to the anticipated litigation has not seen or had access to, but must release those records the opposing party has seen or had access to. We note that the applicability of section 552.103(a) ends once the litigation concludes. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119362

Enclosures: Submitted documents

cc: Mr. Adam Walker
3400 Wingate
Waco, Texas 76706-4231
(w/o enclosures)